



Patent
Attorney's Docket No. 001560-396

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
Kengo AKIMOTO et al) Group Art Unit: 1651
Application No.: 09/807,541) Examiner: Kailash C. Srivastava
Filed: April 13, 2001) Confirmation No: 7683
For: MICROORGANISMS THAT)
EXTRACELLULARLY SECRETE)
LIPIDS AND METHODS OF)
PRODUCING LIPID AND LIPID)
VESICLES ENCAPSULATING LIPIDS)
USING SAID MICROORGANISMS)

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JUN 25 2002

TECH CENTER 1600/2900

AMENDMENT/REPLY TRANSMITTAL LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Enclosed is a reply for the above-identified patent application.

- ☐ A Petition for Extension of Time is also enclosed.
- ☐ A Terminal Disclaimer and a check for ☐ \$55.00 (248) ☐ \$110.00 (148) to cover the requisite Government fee are also enclosed.
- ☐ Also enclosed is _____.
- ☐ Small entity status is hereby claimed.
- ☐ Applicant(s) request continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$370.00 (279) ☐ \$740.00 (179) fee due under 37 C.F.R. § 1.17(e).
- ☐ Applicant(s) previously submitted __, on __, for which continued examination is requested.
- ☐ Applicant(s) request suspension of action by the Office until at least __, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- ☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (146/246) is also enclosed.

(05/02)

☒ No additional claim fee is required.

☐ An additional claim fee is required, and is calculated as shown below:

AMENDED CLAIMS					
	NO. OF CLAIMS	HIGHEST NO. OF CLAIMS PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	ADDT'L FEE
Total Claims		MINUS =		× \$18.00 (103) =	
Independent Claims		MINUS =		× \$84.00 (102) =	
If Amendment adds multiple dependent claims, add \$280.00 (104)					
Total Amendment Fee					
If small entity status is claimed, subtract 50% of Total Amendment Fee					
TOTAL ADDITIONAL FEE DUE FOR THIS AMENDMENT					

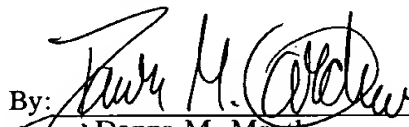
☐ A claim fee in the amount of \$_____ is enclosed.

☐ Charge \$_____ to Deposit Account No. 02-4800.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:  Reg No 36,607
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Registration No. 36,607

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(703) 836-6620

Date: June 21, 2002



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Attorney's Docket No. 001560-396

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In complete response to the Requirement for Restriction issued by the Patent and Trademark Office on May 21, 2002, applicants hereby elect with traverse the invention of Group I, claims 1-14, 30-43, 52-59 and 65-73 for prosecution in this application. Group I is drawn to a first product and method of use, which is a microorganism which secretes lipid vesicles and method of making lipid vesicles, lipids and fatty acids using the microorganisms.

The traversal is based upon the fact that the instant application was filed under §371. Applicants are thus entitled to a "unity of invention standard" for determining restriction. It is respectfully submitted that "unity of invention" exists in the instant case. Group I relates to a first product and method of use, which is a microorganism which secretes lipid vesicles and method of making lipid vesicles, lipids and fatty acids using the microorganisms. Group II is directed to a second product consisting of lipid vesicles. Group III is drawn to a first assay method and microorganisms selected according to the assay method. Group IV is drawn to a third product, a lipid. Group V is drawn to a second assay method and the microorganisms selected by the second assay method. These

claims are thus all united by and related to the microorganism of the Group I invention.
Unity of invention thus exists.

Moreover, according to the MPEP § 803, a restriction between patentably distinct inventions is proper only where there is a serious burden on the Examiner to examine all the claims in a single application. This is true even when appropriate reasons exist for a restriction requirement.

In the present application, it is believed that because there is a close relationship between the subject matter of the five sets of claims, there would be no serious burden on the Examiner to examine all the claims at this time.

In view of the above, it is respectfully requested that the restriction requirement be withdrawn or at the very least altered.

In the event that there are any questions relating to this amendment or the application in general, it would be appreciated if the Examiner would contact the undersigned attorney at (508) 339-3684.

Early and favorable action in the form of a notice of allowance is respectfully requested.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:


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